IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 9 OF 2006

Sau.Chetana w/o. Chanrashekhar
Sakolikar. ... Applicant.

V/s.

Chandrashekhar s/o Bhaurao
Sakolikar. ... Respondent.

K.K.Soloman for the appellant.

C.G.Gavnekar for the respondents.

CORAM: A.M.KHANWILKAR, J.

DATED: 23rd January 2007.

P.C.:

. Heard counsel for the parties.

2. The only ground for transfer of Marriage Petition No.21/2004 from the Court of Civil Judge, Senior Division, Alibag (Mahad Camp) to the Court of Civil Judge, Senior Division, Gondia, is that, the applicant is dependent on her parents and will not be able to travel such a long distance alone to attend the court proceedings- unless she is accompanied by some other relation, as there is no other relative staying at Alibag. This is the solitary ground pressed during the course of the

argument. Counsel for the respondent has rightly placed reliance on the decision of the Supreme Court in **Shiv Kumari Devendra Ojha v. Ramajor Shitla Prasad Ojha**, AIR 1997 SC 1036 to contend that such ground cannot be the basis to transfer the proceedings. The counsel for the respondent further submits that the respondent is willing to bear the expenses of travel and stay of the applicant and the person accompanying her at the time of hearing of the proceedings at Mahad Camp, Alibag. The respondent is willing to pay a sum of Rs.5,000/- per day basis to the applicant, but on condition that the applicant shall not take any adjournment before the Court at Mahad Camp, Alibag on any ground and shall proceed with the matter on day to day basis. In my opinion, the offer made by the respondent being a reasonable offer and would take care of the apprehension entertained by the applicant, this application deserves to be disposed of with the following order.

3. The request of transfer of case bearing Marriage Petition No.21/2004 from the Court of Civil Judge, Senior Division, Alibag (Mahad Camp) to the Court of Civil Judge, Senior Division, Gondia is rejected on condition that the respondent shall bear

all the expenditure of travel and stay of the applicant and the person accompanying her to attend the court proceedings at Mahad, Alibag. For that purpose, amount has been quantified at Rs.5,000/- per day basis. This however, is on condition that the applicant shall not seek adjournment before the trial Court on any count and shall proceed with the trial of the proceedings before the trial Court on day to day basis.

4. It is stated that the matter is pending at the stage of cross-examination of the witness of the petitioner (respondent herein) and he intends to examine only one witness. The trial court shall conclude the trial as expeditiously as possible, preferably, within two weeks from the date the trial Court actually commences the trial. The trial Court shall not insist for personal appearance of the applicant unless it is necessary for the trial. If the applicant attends the court proceedings on the scheduled dates, the respondent- husband shall be liable to pay compensation towards expenditure of travel and stay of the applicant and the person accompanying her, which is quantified at Rs.5,000/- per day to day basis. This compensation amount will not preclude the applicant from claiming further

costs before the trial Court as may be permissible by law. The trial Court shall endeavour to go on with the trial of the proceedings on day to day basis. Parties appearing before this Court, through their counsel, assure that they will extend full co-operation to the trial court for early disposal of the proceedings. They shall appear before the trial Court on 20th February 2007, on which date, the trial Court may proceed to cross-examine respondent's witness and continue with the trial on day to day basis. Applicant may produce her witnesses, if any, for cross-examination immediately after the cross-examination of the respondent's witness is concluded.

5. The respondent-husband, through counsel, assures that he will initially deposit sum of Rs.25,000/- in the trial Court which amount will be towards the costs of the applicant to incur expenses for the travel and stay of the applicant and the person accompanying her in terms of this order. The applicant will be entitled to apply to the trial Court for withdrawal of the proportionate amount on making appearance, which has been quantified in the sum of Rs.5,000/- per day, for the period for which she stays at Mahad, Alibag to attend the court

proceedings. If the amount of Rs.25,000/- is exhausted, respondent-husband shall deposit further amount of Rs.25,000/- before the trial Court as per the direction to be given by the trial Court in that respect.

6. This application stands disposed of in the above terms.

(A.M.KHANWILKAR, J.)